

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

Case No. 7:20-CR-00115-M

UNITED STATES OF AMERICA,

Plaintiff,

v.

TIMOTHY WILLIAM BAVARO,

Defendant.

ORDER

This matter comes before the court on a letter filed by Defendant and construed liberally as a pro se motion for transfer to an alternate correctional facility [DE 151].¹ Defendant contends that he has been housed at a “jail in Emporia, VA” and asks to be “sent to whatever prison I’m going to so I can start using this time to benefit me.”

Transfers of federal inmates among jail/prison facilities are matters within the exclusive province of the Attorney General, acting through the Bureau of Prisons (“BOP”). *See Gwynn v. United States*, No. 4:07CR112-005, 2012 WL 12870341, at *2 (E.D. Va. June 4, 2012), *aff’d*, 486 F. App’x 372 (4th Cir. 2012) (“The housing location of prisoners is a matter of executive, rather than judicial, concern.”). In this case, the BOP was properly notified of Defendant’s custodial sentence through the court’s Judgment. *See* DE 134. At that point, the BOP assumed authority to assign Defendant to a facility that is both available and appropriate under the circumstances.

¹ Defendant filed a notice of appeal of the court’s Judgment on March 27, 2023. “While a notice of appeal generally divests the district court of jurisdiction over a case, an exception exists to allow district courts to resolve issues collateral to the main cause of action.” *Hatteras/Cabo Yachts, LLC v. M/Y Epic*, No. 4:17-CV-00025-BR, 2021 WL 5855818, at *1 (E.D.N.C. Dec. 9, 2021) (citing *Doe v. Pub. Citizen*, 749 F.3d 246, 258 (4th Cir. 2014)).

Notably, Defendant mentions nothing about whether and/or how he communicated with prison officials regarding his concern that he had not been transferred to a federal prison facility.

Therefore, having no authority to grant requests for transfer among jails or prisons (absent a finding of a constitutional violation or other circumstance not applicable here), the court DENIES the Defendant's motion. The court notes that the BOP's electronic "inmate locator" reflects that Defendant is currently located at "Butner Medium II FCI." *See* <https://www.bop.gov/inmateloc/> (last visited Aug. 21, 2023).

SO ORDERED this 21st day of August, 2023.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE